Equality and Human Rights Commission

Minutes of the 101st meeting of the Board of the EHRC

23 February 2022 (09:00-12:30)
Virtual Meeting

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Attending

Commissioners
Baroness Kishwer Falkner (Chairwoman); Caroline Waters (Deputy Chair); Suzanne Baxter; Jessica Butcher; Pavita Cooper; David Goodhart; Alasdair Henderson; Helen Mahy; Mark McLane; Akua Reindorf; Dr Lesley Sawers and Su-Mei Thompson.

Officers
Marcial Boo, Chief Executive Officer
Ben Coates, Chief of Staff
Joe Corcos, Director of People and Infrastructure (Item 9)
Cath Denholm, Chief Operating Officer
Melanie Field, Chief Strategy and Policy Officer
Stephen Hardwick, Strategic Communications Adviser (items 6-10)
Jackie Killeen, Director of Regulation
Kerry Lucas, Senior Principal – People (item 9)
Callum MacInnes, Principal – Planning, Performance and Governance
Bill Malloy, Director of Finance etc & Governance (item 7)
Sarah Whelan, Senior Associate – Planning, Performance and Governance

Guests
Martyn Jones, Interim Chair - EHRC Wales Committee
Charles Ramsden – Government Equalities Office (GEO)

1. Chairwoman's welcome and apologies.

1.1 The Chairwoman welcomed attendees. No apologies for absence were received.

2. Declarations of interest

2.1 Akua Reindorf advised members that her register of interests had been updated following her declaration at the January Board meeting at 101.01/3.1.

2.2 Suzanne Baxter advised that she had been appointed as a Non-Executive Director and Audit Committee Chair to the Auction Technology Group on 4 February and her register of interests had been updated to reflect this.

3. Minutes of the 100th Board meeting

3.1 The Board approved the minutes of the meeting of 24 January 2022 as an accurate record.

4. Actions arising

4.1 The Board reviewed the Actions Log.

4.2 The Chairwoman advised that, following agreement at the January Board meeting that the Board would approve all human rights reports before publication, the revised clearance process would be agreed at the next Commissioner Working Group for Human Rights Monitoring meeting on 03 May and the Board informed.

4.3 The Chairwoman stated that the action to strengthen the Commission's powers had been discussed by the executive and advice would come to the Board for further discussion.

Action: Chief Strategy and Policy Officer to bring a paper on the Commission's powers to the July Board meeting.

4.4 Commissioners were advised that the agenda for the all-staff event in Manchester would be circulated to Commissioners.

Action: Chief of Staff to ensure the event agenda is circulated to the Board.

4.5 Su-Mei Thompson requested an update on the stakeholder engagement review (Action 91/9.3). The Executive advised an update will be provided at the March Board meeting.

Action: CEO to provide an update in the March CEO report, with a full discussion on the engagement strategy at the June Board meeting.

5. Committee / Commissioner Working Group (CWG) updates

5.1 The Scotland Commissioner advised that the legal appeal on the census in Scotland was taking place and that the ruling was expected on 25 February. The Scotland Committee was keen to be involved with the Commission's decision-making processes to enable them to input into Board discussions.

5.2 The Chair of the People and Workspaces Committee (P&WC) thanked Helen Mahy for temporarily re-joining the Committee to ensure it is quorate. The Chairwoman noted that the Board would review the assignment of Commissioners to Committees after April.

5.3 The P&WC Chair advised that the Committee had met on 22 February. Progress was noted on the Commission's change programme; employee engagement; plans for the staff away event; the environmental, social and governance (ESG) statement; and the amended Terms of Reference (ToRs). She advised that the Commission could be the first arms-length body to release an ESG statement in this form and that it would be a positive step in best practice and an excellent communications opportunity.

Action: COO to bring the ESG statement for approval to the May Board meeting as part of the CEO report. The P&WC ToRs will be updated further and approval will be sought at the June Board meeting.

5.4 The Chair of the Audit and Risk Assurance Committee (ARAC) stated that a written report on the decisions and discussions at its 16 February meeting had been provided as an information paper. This approach would be adopted after every ARAC. She was pleased to report that the Committee were working better as a team, including with the executive, and with an improvement plan in place.

5.5 The Chair of the Commissioner Working Group on Human Rights Monitoring spoke to the information paper on the Stonewall submission to GANHRI, the Global Alliance for NHRIs, requesting a special review of the Commission. The Board would receive a draft of the Commission's response for comment. Consideration by GANHRI will be on 22 March. A Board conference call may take place in April to discuss the outcome, if unfavourable.

Action: The Governance Team to set up the Board conference call in April, if necessary, and add it to the Board forward schedule.

5.6 The Chair of the Commissioner Working Group on Is Britain Fairer (IBF) reported that the group had met on 01 February. They had approved the new format for the IBF report, based around protected characteristics. The specific Scotland and Wales reports may continue to focus on domains, due to the differing contexts and use. He advised that issues relating to data on some protected characteristics still exist and, whilst this was a challenge, it was useful for IBF to be able to highlight those gaps. Commissioners suggested that staff should be engaged in suggesting a potential new name for the report.

Action: Communications team to look into new name for IBF report once the contents of the report are further developed and explore the best way to involve staff in the process.

6. CEO Report & Chairwoman's update

6.1 Commissioners stated that they were impressed with the format, content and professionalism of the report.

6.2 The Board asked whether there had been any support for the Commission's reaccreditation as an A-status National Human Rights Institute. The Executive advised that discussions had taken place with the Foreign, Commonwealth & Development Office (FCDO) and other stakeholders, but that the main action was to submit a robust response to the challenge to our status, as reported earlier in the meeting.

6.3 The Chairwoman expressed the Board's concern that the delays in receiving our 2022-23 budget from the Cabinet Office would impact adversely on our ability to deliver our programme of work, including a heightened risk of an under-spend at year-end due to the inevitable slow start to spending at the beginning of the year in the absence of a budget. The Government Equalities

Office apologised to the Board and insisted that it was doing what it could to expedite matters.

Action: Government Equalities Office aim to provide the Commission with an update on the 2022-23 budget by the time of the March Board meeting.

6.4 Commissioners noted that some letters sent by us to stakeholders and parliamentarians are kept private while others are shared in the public domain. The Chairwoman requested that a policy be developed to ensure consistency of approach in whether we publish our responses to incoming letters. The Executive agreed that publishing letters can be an important regulatory tool and that a policy should be developed.

Action: Director of Communications to develop a policy and provide an update to the Board via the CEO report in May.

6.5 Commissioners asked to be updated on the number of cases being referred to via the legal fund that supports cases of race discrimination. Commissioners advised that it was better to take on cases that have been signposted by solicitors, rather than take on cases directly from individuals, so that relevant information would already have been gleaned. The Executive advised that, since the report was produced, the number of cases had started to increase and that this would be kept under review.

Action: CEO to include a progress report on the legal fund in the March CEO report.

6.6 Commissioners were content with the recent Observer article written by the Chairwoman and asked about future media plans. The Executive advised that we will promote the positive work the Commission is doing to demonstrate the breadth of its remit. An update will be brought to the Board on high level plans.

Action: CEO to include a progress report on communications in the March CEO report.

6.7 The Chairwoman commended the Executive for their hard work through a period of staff absences. Commissioners queried whether this reflected wider trends in the organisation. The Executive reassured the Board this was not the case and that the absences had been due to personal circumstances. The Chairwoman asked whether a contingency plan was in place for such absences, and it was agreed that this should be formalised and that it would assist in developing future leaders too.

Action: Deputy Chair to work with Chief Operating Officer to create a formal process.

6.8 The Board requested sight of the Sexual Harassment Prevention checklist for the hospitality industry prior to its publication. The Interim Chair of the Wales Committee also asked for data specific to Wales and queried whether the checklist could be used for other sectors.

Action: Director of Regulation to ensure the checklist is shared with Commissioners and to consider its use for other sectors by early April.

6.9 The Board were updated on the office accommodation in Cardiff and approved the new permanent Cardiff office.

7. 2022-23 Business Plan

7.1 The Board discussed the proposals for the Commission's 2022-23 Business Plan, stating that it was an excellent and clear paper. They approved the summary Business Plan; the priority activities and approved delegation to the Chief Executive and Chairwoman to sign off the finalised plan, making the following observations:

a) They noted the break down by nation and discussed whether the Commission should allocate its resources in line with population, but accepted that it was important to have planned activity of national relevance;
b) That the breakdown by protected characteristic was helpful, but queried whether there needed to be a cross check to ensure an appropriate balance of activity across all of the protected characteristics;
c) That the percentage of resource allocated to areas should be estimates rather than targets, to allow scope for reactive work;
d) That the Wales Committee agreed with the plan overall and requested more work on violence against woman and girls and on socio-economic disadvantage, as well as more detail on how reactive work will be managed;
e) That the Scotland Committee were pleased to input into the plans, advising that the Scotland Human Rights Commission will need to agree to our human rights work in Scotland. With regards to the gender pay gap, they asked that the plan looks beyond mere compliance and to sharing learning across the nations in this area;
f) That ARAC provides regular assurance on progress, whilst the Board reviews delivery against the Business Plan every six months rather than quarterly; and
g) That they were pleased to see the inclusion of work on the retention of police officers from diverse backgrounds, given this was discussed at the previous Board meeting. The Chairwoman advised this is in our remit through the public sector equality duty, and asked whether consideration could be given to linking this work with the legal fund supporting cases of race discrimination. David Goodhart offered to share information following a recent relevant meeting he had had. The Executive advised it was in contact with the Independent Office for Police Conduct as another regulator in this area and will continue to engage with them, and return to the Board with more specific proposals for work in this area in due course.

Action: David Goodhart to share information with Commissioners from his meeting.

Action: Chief Operating Officer and Director of Finance to schedule impact reporting potentially quarterly to ARAC, and six-monthly to the Board.

8. Single Sex Spaces guidance

8.1 The Board discussed the proposals for the Commission's approach to producing single-sex spaces guidance and revising the statutory Code of Practice. They agreed to publish the guidance immediately and to review the Code of Practice during 2022, noting that it had not been reviewed since it was first published in 2011.

8.2 Commissioners noted the importance of stakeholder and government opinions, both in relation to the guidance and the Code. But the Board noted that the Commission is a statutorily independent body, and so decisions about what to publish and when were for the Board. Commissioners advised that the guidance on single-sex spaces should be firmly based in the law, with any examples and case studies that are relevant and up-to-date. It was critical that the Wales and Scotland Committees input into the final version of the guidance.

8.3 The Board emphasised the need for a robust and clear communication strategy to accompany the publication of the guidance which: engaged key stakeholders early in the process; includes a Q&A to enable consistent and efficient responses; and is fit for purpose across the nations, noting the policy divergence across Britain.

Action: The Governance Team to organise a Board conference call by 4 March for approval of the guidance.

Action: CEO, Scotland Commissioner and Interim Chair of the Wales Committee to engage with the Statutory Committees on the guidance.

Action: Chief Executive and Strategic Communications Adviser to advise the Board on the Communications strategy.

Action: Director of Regulation to advise on the process and timescales to revise the Code of Practice.

9. Employee engagement and staff survey results

9.1 The Board considered the results of the annual staff survey and one-off 'listening exercise' conducted in November and December 2021. They commented that, although the pandemic and lockdowns had inevitably

impacted levels of engagement, the negative responses from Commission staff had been stronger than expected. There were clearly many areas of concern, including both new and historical issues.

9.2 Commissioners noted the importance of being transparent to staff, and that the Commission's role as an authoritative, independent regulator could be better communicated internally. It was noted that the Civil Service Code helps civil servants to understand their role, even when they disagree with ministers. Commissioners agreed that Board engagement led by the Chairwoman should be improved as Covid regulations eased; that the Executive should encourage staff to return to an office environment to support increased human interaction; that efforts should be made to engage informally as a whole organisation, such as at the all-staff event planned for March; and the need for robust, effective and creative internal communication.

Action: The Director of People and Infrastructure to produce an action plan to address issues arising, and to report on the plan to the P&WC and through them to the Board.

10. Any other business

10.1 The Chairwoman advised that the next Board meeting would be in Manchester on the morning of the first day of the all staff away event on 22 March, allowing Commissioners to join staff in the afternoon.

10.2 The Chairwoman reminded Commissioners to complete the survey for the Board effectiveness review and encouraged Commissioners to attend the chairing meetings training taking place later this month.

Agreed by the Board at its meeting of 22 March 2022